



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1993

Ms. Kathleen Henley
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR93-714

Dear Ms. Henley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 21168.

The City of McAllen (the "city") has received a request for certain city police department policy materials. Specifically, the requestor seeks sections 1, 2, 3, 5, 6, 7, and 9 of the city police department's "Policies and Procedures Manual." You advise us that sections 1 and 9 have been made available to the requestor. You object, however, to release of sections 2, 3, 5, 6, and 7. You have submitted this information to us for review and claim that section 552.108 of the act excepts it from required public disclosure.

Section 552.108(b) excepts from required public disclosure:

An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

law enforcement. Open Records Decision No. 434 (1986) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). In Open Records Decision No. 531 (1989), this office determined that detailed guidelines regarding a police department's use of force policy are excepted by section 552.108, but not those portions of the procedures that restate generally known common law rules, constitutional limitations, or Penal Code provisions.

We have examined the information submitted to us for review. We believe that release of some of the submitted information would unduly interfere with law enforcement. This information has been marked and may be withheld from required public disclosure under section 552.108 of the act. The remainder of the information, however, merely restates generally known common law rules, constitutional limitations, or Penal Code provisions, or otherwise would not, if released, undermine law enforcement and thus must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



William Walker
Assistant Attorney General
Open Government Section

WMW/GCK/rho

Enclosures: Marked documents

Ref.: ID# 21168
ID# 21714

cc: Mr. Joe Riquelmy
Route 1, Box 3810
Donna, Texas 78537
(w/o enclosures)